

Serial No.: 10/092,507

### **REMARKS**

Claims 16-37 and 113 are pending. Claim 16 is amended. Claims 115-119 are newly added. Claims 94-99 and 114 have been withdrawn by the Examiner. No new matter has been added. Applicants request consideration of the pending claims in view of the above amendments and following remarks.

#### **35 U.S.C. §102 Rejections**

Claims 16-37 and 113 have been rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,785,592 to Smith et al. ("Smith"). Applicants respectfully traverse this rejection.

The Examiner states on page 3 of the Office Action [at 16] that Smith discloses the features of claim 1, and cites several passages of Smith in support of this assertion. However, a close examination of each of these passages (e.g., col. 2, lines 10-47, col. 6 lines 42-52, col. 7, lines 18-30, col. 8, lines 58-65, col. 9, lines 11-24, col. 13, lines 7-19, col. 13, lines 50 to col. 14, line 22) does not support this contention. For example, nowhere in these passages does Smith disclose or suggest as least one curtailment possibility generated by at least one energy user based on rules as required by claim 16. The curtailment possibility of the claimed invention is a specific type of communication as explained at least at pages 12 and 13 of Applicants' specification. However, to advance the application, claim 16 is amended to clarify the claimed invention and includes the recitation of:

*processing the at least one curtailment possibility generated by said at least one energy user when the at least one relevant energy-related event is determined to be present, wherein the at least one curtailment possibility is generated based on rules associated with*

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*the energy user, the rules defining context for determining minimal impact to building occupants served by the at least one energy user. (Emphasis added)*

Applicants submit that Smith nowhere contemplates this combination of features. The energy users on the client side 302 of Smith send raw environmental data such as from meters and the like, to the supply side 304 where all the forecasting, predictive analysis and optimization occurs, as described in reference to Figure 3, at col. 7, lines 30 to col. 4, line 34, for example. Nowhere does Smith contemplate “energy users” (such as found on the client side 302) generating at least one curtailment possibility based on rules associated with the energy user that define a context for determining minimal impact to building occupants served by the at least one energy user, as required by claim 16.

Therefore, since neither Smith, nor any other references of record, disclose all the claimed limitations of independent claim 16, the rejection under 35 U.S.C. §102 should now be withdrawn including those claims depending therefrom.

#### Newly Added Claims

Support for newly added claims 115 may be found at least at page 16, third and fourth paragraphs, in view of page 12, lines 1-3.

Support for claim 116 may be found at least at page 12, last paragraph, where it says, in part:

*“The requests for energy curtailment possibilities are directed to such energy users that have the ability to consider their energy curtailment possibilities and to formulate an energy curtailment response (such as an offer of kilowatt hours to forego).”*

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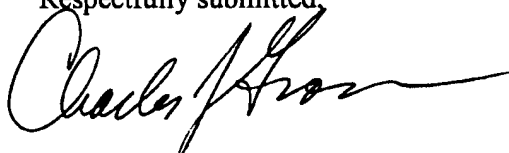
Support for claims 117-119 may be found at least at page 12, last paragraph  
to page 13, first paragraph.

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### CONCLUSION

In view of the foregoing amendments and remarks, Applicant submits that all of the outstanding rejections and objections have been traversed or rendered moot and submit that the claims are patentably distinct from the prior art of record and are in condition for allowance, or in the alternative, better form for appeal. The Examiner is respectfully requested to pass the above application to issue. The Examiner is invited to contact the undersigned at the telephone number listed below, if needed. Applicant hereby makes a written conditional petition for extension of time, if required. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 23-1951.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles J. Gross", with a long horizontal flourish extending to the right.

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